cover (as the reviewer did) with both pleasure and profit. Because it gives due attention to details of practice, the busy practitioner who desires immediate assistance in drawing equity papers will find it of great assistance. In the opinion of the reviewer the thanks of the profession are due to Mr. Whitehouse.

EDWIN H. ABBOT, JR.

LAW AND ITS ADMINISTRATION. By Harlan F. Stone. New York: Columbia University Press. 1915. pp. vii, 232.

In a course of eight lectures Dean Stone has undertaken the somewhat difficult task of presenting to laymen "some of the more fundamental notions which underlie our legal system." The character of his audience should be borne in mind in considering the attitude of the writer toward his subject. It accounts, perhaps, for the vigor of his defense of the law, its administration and its administrators, particularly in the lectures on "Law and Justice" and "Constitutional Limitations," in which he has in mind the general and sweeping, uncritical and even intemperate attacks which have been made at times by the laity upon our legal system. He shows very clearly how unsound is the popular assumption that the administration of law under the conditions presented by the complex civilization of to-day is an easy task; he makes it clear, on the contrary, how difficult a task it is, a task which absolutely requires the best efforts of the most thoroughly trained to cope with its difficulties. In his discussions of the subjects of "Bench and Bar," "Procedure," and "Law Reform," Dean Stone frankly admits a justification for the dissatisfaction of the public where real defects do undoubtedly exist, and he presents a constructive and progressive program of reform. It is to be regretted by all who have at heart the administration of justice in the state of New York, that the hope expressed by the writer that needed reforms would be accomplished by the adoption of a new constitution was destined to be disappointed. The lectures on "Nature and Functions of Law" and "Fundamental Legal Conceptions" show that quality of simplicity which comes from clear thinking and a knowledge of the subject.

It is somewhat strange, however, that Dean Stone should, at this late day, so vigorously support the decision of the New York Court of Appeals in the famous Ives case, which he says "was the occasion of an outburst of criticism of the Court of Appeals, so loud, so ill-tempered, and so misguided, as to startle those who have respect for and faith in our institutions. . . . The spirit which under such circumstances dictated virulent attacks upon the court by the unsuccessful litigants is a spirit essentially lawless and subversive of all orderly judicial procedure" (p. 152). He further says that the fact that the constitution of the state of New York has been amended so as to authorize the passage of a workmen's compensation act shows that "by the orderly process of the law the supreme law of the state has been brought into harmony with the popular will, and a complete scheme of workmen's compensation is now in operation in this state. Whether this law will be upheld by the Supreme Court remains to be seen, but the history of the subject in New York emphasizes the fact that there is a direct and orderly method of correcting the erroneous determination of courts if such are made, and of bringing the provisions of our constitution into harmony with the popular will without resorting to ill-tempered abuse of the courts" (p. 155). But if a statute like that which was held in the Ives case to violate the state constitution does also violate the federal constitution, the direct and orderly method does not prove efficacious. If, on the other hand, such a statute does not violate the federal constitution it is because it does not involve a deprivation of life, liberty, or property without due process of law under the federal constitution; but if so it should not be held to be such

a deprivation under the state constitution. It really cannot be justifiable to hold that due process means one thing in the state constitution and another in the federal constitution, in spite of what Judge Werner seems to say. Fortunately the Supreme Court of the United States has taken a more liberal view of constitutional questions than that taken by the New York Court of Appeals. The Court of Appeals, however, has had a change of viewpoint since the decision in the Ives case was rendered. The new attitude of the court may be seen in such cases as *People* v. *Klinck Packing Co.*, 214 N. Y. 121 (upholding the "one day of rest in seven" law); *People* v. *Crane*, 214 N. Y. 154 (upholding a law providing that only citizens shall be employed upon public works); *People* v. *Charles Schweinler Press*, 214 N. Y. 395 (upholding a law providing that no woman shall work in any factory before six o'clock in the morning or after ten o'clock in the evening); which, although not directly opposed to the decision in the Ives case, show a readiness to consider actual conditions as well as "purely legal phases." The same thing may be said of *Matter of Jensen* v. *Southern Pacific Co.*, 215 N. Y. 514, in which the present workmen's compensation law of New York is upheld.

AUSTIN W. SCOTT.

THE PRINCIPLES OF LEGAL LIABILITY FOR TRESPASSES AND INJURIES BY ANIMALS. By William Newby Robson. Cambridge, England: Cambridge University Press. 1915. pp. xvi, 180.

This exhaustive discussion of the English cases on liability for animals is another example of the convenient English practice of treating small sections of the law in small compass. It can scarcely be said to add anything of import to the store of learning upon this anomalous and unsymmetrical branch of the law, but as a handy digest of English case law on the subject it fulfills a purpose.

It is divided into three parts. The first, on the classification of animals, points out differences in this classification for the purposes of property law and of tort liability, which have generally been obscured by the use of similar terminology. The second deals with liability for the wrongful entry of animals upon land. The third and major part of the book examines at some length the law as to the liability of the keeper of animals for injuries inflicted by them upon the person or property of others.

At the very beginning the author attempts to demonstrate that the keeping of a known dangerous animal is the wrong which constitutes the basis of the liability. This is a view which finds considerable support in the authorities both in England and the United States. Thus, contribution has been denied between the joint owners of a vicious ram which had inflicted an injury for which one had been compelled to pay. (*Spaulding* v. *Adm'r of Oakes*, 42 Vt. 343). It is submitted, however, that it is an error springing from the practice of our law to disguise by fictions of fault liabilities not based on fault at all. One who keeps a known dangerous animal is not *per se* guilty of any legal wrong, but is made responsible for the injurious acts of the animal for reasons of policy similar to those which underlie his responsibility for the torts of his servant. The wrong is the act of the animal, for which the owner or keeper is made vicariously responsible. Otherwise nothing but the act of the injured person in bringing the injury upon himself should excuse the owner, unless, indeed, it be contended that an intervening act of a third person or a *vis major* renders the wrongful keeping remote as a cause of the injury. If this be so, however, the escape of the animal without fault on the part of the owner should have the same effect. As a matter of